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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,210	11/26/2003	Lisa Semeniuk	50709-4	1209

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EXAMINER

PATEL, NIHIR B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,210

Applicant(s)

SEMIENIUK, LISA

Examiner

Nihir Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 3rd, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims **1 through 6, 10 through 15, 20 through 24, 28 and 30** are rejected under 35 U.S.C. 102(a) as being anticipated by Norfleet (US 6,418,929).

Referring to claim 1, Norfleet discloses an infant oxygen mask that comprises the steps of providing an oxygen mask **40** that further comprises an adaptor **56** for receiving oxygen supply tubing **58** (**see figure 3**), and securing the oxygen mask **40** over a respiratory outlet using a strap that engages the crown of the head with a crown member that is spaced above both ears of the head (**see figure 3**), and attaches to the oxygen mask **40** via only one side strap on each side (**see figures 1 and 2**), each side strap extending along one side of the head between a junction on the crown member and only one attachment point on the oxygen mask (**see figures 1 and 2**), along a path that is spaced in front of the ear on that one side of the head.

Referring to claim 2, Norfleet discloses an apparatus wherein the crown member comprises an upper crown strap **62** and a lower crown strap **64** (**see figure 3**).

Referring to claim 3, Norfleet discloses an apparatus wherein the strap comprises a resilient material (**see column 4 lines 49-53**).

Referring to claim 4, Norfleet discloses an apparatus wherein the strap comprises a resilient material (**see column 4 lines 49-53**).

Referring to claim 5, Norfleet discloses an apparatus wherein the resilient material is elastic material (see column 4 lines 49-53).

Referring to claim 6, Norfleet discloses an apparatus wherein the resilient material is elastic material (see column 4 lines 49-53).

Referring to claim 10, Norfleet discloses an infant oxygen mask that comprises the steps of providing an oxygen mask 40 that further comprises an adaptor 56 for receiving oxygen supply tubing 58, providing a trap that comprises a crown member that engages the crown of the head of the person at a selected distance above both ears of the person (see figure 3), and only one side strap on each side (see figures 1 and 2), each side strap having a first and a second end, the first end being attached to the crown member at a junction (see figure 3), connecting the second end of each side trap to one each on only two attachment points on the mask (see figure 3), and using the strap to secure the oxygen mask over the respiratory outlet, thereby causing each side strap to extend between the junction and the attachment points along a path that is spaced in front of each ear (see figure 3).

Referring to claim 11, Norfleet discloses an apparatus wherein the crown member comprises an upper crown strap 62 and a lower crown strap 64 (see figure 3).

Referring to claim 12, Norfleet discloses an apparatus wherein the strap comprises a resilient member (see column 4 lines 49-53).

Referring to claim 13, Norfleet discloses an apparatus wherein the strap comprises a resilient material (see column 4 lines 49-53).

Referring to claims 14 and 15, Norfleet discloses an apparatus wherein the resilient material is elastic material (see column 4 lines 49-53).

Referring to claim 19, Norfleet discloses an infant oxygen mask that comprises an oxygen mask 40 having only one attachment point on either side of the mask (see figures 1 and 2), and further comprising an adaptor 56 for receiving oxygen supply tubing 58, and a strap having a crown member engageable on the crown of the head of the person at a selected distance above both ears of the person (see figure 30), and only one side strap on each side (see figures 1 and 2), each side strap having a first end and a second end, each first end being attached to the crown member at opposed junctions (see figures 1 and 2), joined together by connecting each attach point to the second end of one of the side straps, and characterized in that each side strap is spaced in front of an ear of the person when the mask and strap are in use.

Referring to claim 20, Norfleet discloses an apparatus wherein the crown member comprises an upper crown strap 62 and a lower crown strap 64 (see figures 3).

Referring to claim 21 and 22, Norfleet discloses an apparatus wherein the strap comprises a resilient material (see column 4 lines 49-53).

Referring to claims 23 and 24, Norfleet discloses an apparatus wherein the resilient material is elastic material (see column 4 lines 49-53).

Referring to claim 28, Norfleet discloses an infant oxygen mask that comprises an oxygen mask 40 having only one attachment point on either side of the mask (see figures 1 and 2), and further comprising an adaptor 56 for receiving oxygen supply tubing 58, and a strap with a crown member comprising an upper crown member 62, a lower crown strap 64, and two opposed junctions (see figure 3); only one side strap extending from each side junction (see figures 1 and 2) joined together by connecting each attachment point to the second end of one of the side straps, and characterized in that the crown member engages the crown above the ear, and each

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side strap is spaced in front of an ear of the person, when the mask and strap are in use (see figure 3).

Referring to claim 30, Norfleet discloses an apparatus wherein the upper crown strap, the lower crown strap and the side strap comprises an elastic material (see column 4 lines 49-53 and figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 16, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norfleet (US 6,418,929) in view of Darrow (US 1,323,217).

Referring to claims 7, 16, 25 and 29, Norfleet discloses the applicant's invention as claimed with the exception of providing a transverse element that is connected at one end to the upper strap and connected at the other end to a lower strap. Darrow discloses a ventilating mask that does provide a transverse element that is connected at one end to the upper strap and connected at the other end to a lower strap. Therefore it would have been obvious to modify Norfleet's invention by providing a transverse element that is connected at one end to the upper strap and connected at the other end to a lower strap as taught by Darrow in order to keep the oxygen mask tightly fixed against the patient face in order to prevent oxygen from leaking.

Claims 8, 9, 17, 18, 26, 27 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norfleet (US 6,418,929) in view of Darrow (US 1,323,217) as applied to claims 7, 16, 25 and 29 above, and further in view of Cruickshank (Patent GB 2 212 725 A).

Referring to claims 8, 9, 17, 18, 26, 27 and 31, Norfleet and Darrow discloses the applicant's invention as claimed with the exception of providing transverse (crown strap) that comprises resilient (elastic) material. Cruickshank discloses a breathing apparatus that does provide transverse (crown strap) 3 (see figure 1) that comprises resilient (elastic material). Therefore it would have been obvious to modify Norfleet and Darrow inventions by providing transverse (crown strap) that comprises resilient material (elastic) material in order to make it easier to put on and remove the mask.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP
May 13th, 2005

Henry Bennett
Supervisory Patent Examiner
Group 3700

